Free Parliaments:

OR, A

VINDICATION

OF THE

PARLIAMENTARY CONSTITUTION OF ENGLAND;

IN ANSWER TO

Certain visionary PLANS of modern REFORMERS.

NOLUMUS LEGES ANGLIÆ MUTARI.

Barons Motto

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FREE PARLIAMENTS, &c. &c. &c.

IT was the cuſtom of our old writers, whenever they offered themſelves to the Public, to aſſign their reaſons for ſo doing in a kind of private addreſs to the reader; which they called *the Proem*, and ſometimes *Prolegomena*. With the reader's permiſſion, I will follow the old cuſtom, and though not a writer by profeſſion, which he will inſtantly diſcover, as well by the ſtyle, as by the artleſs and unadorned manner in which the ſeveral facts are ſtated, and will acquaint him with my reaſons for preſuming to offer the following pages to his attention.

On the firſt day of the preſent ſeſſion of parliament, (December 5, 1782,) the duke of Richmond, having ſpoken a little warmly againſt the preſent mode of repreſentation; lord Sandwich ſaid, whenever that matter came into diſcuſſion, the noble duke would find that there was a great deal to be ſaid on the other ſide: upon which lord Shelburne threw out a ſort of general invitation, ſaying that

that it was a queſtion in which the people were deeply intereſted, and that it would undergo a ſtrict and diſpaſſionate enquiry. He did not pledge himſelf (for in ſuch a ſpeech he could not) to maintain or oppoſe either ſide, becauſe he was ſpeaking of the propriety of going, at a convenient time, into what he called a full and impartial enquiry into the merits; and he ſaid that he ſhould be extremely glad, and that it would be very proper, to hear *every* opinion before the queſtion was decided upon.

Having read, during the ſummer, many of the pamphlets and papers, which have been publiſhed by the different Theoriſts, on the ſubjects of ſhortening the duration of parliaments, and a general right of election, without being convinced of either the veracity of their aſſertions, or the cogency of their arguments, I amuſed myſelf in the country, during the Chriſtmas receſs, with writing the following pages—— So much having been written in favour of one ſide, it ſeemed to be at leaſt not improper to try what could be ſaid on the other ſide.— Who the writer is, can afford no ſatisfaction to the reader, and at preſent it is not material.

——— *Hall*,
20 *January*, 1783.

Of

Of the Duration of Parliament.

ANNUAL PARLIAMENTS.

Upon this point there are no leſs than three different opinions, amongſt the Speculators for reforming the conſtitution.

The firſt, or majority, are for *annual* parliaments. The ſecond are for biennial, and the third are for triennial.

The firſt ſay, that *annual* parliaments are an Engliſhman's birthright; and that any parliament choſen otherwiſe than for *one* year only, is an illegal parliament; that the electing of a member of parliament for a longer term than one year, is a deprivation, or ſuſpenſion, of the exerciſe of the people's franchiſe; that no cuſtom can juſtify ſuch deprivation, or ſuſpenſion; and that all laws made for continuing parliament beyond the term of one year, are ſo many uſurpations of the *rights* of the people.

Theſe are very bold aſſertions; and thoſe who make them, would do well to conſider ſeriouſly what they lead to.——To nothing leſs than a total abrogation of all the laws, made by, and all other proceedings of, every parliament, after the firſt year from its election. All property of whatſoever kind, created or transferred, by virtue of every act of parliament,

ment, ſo made, is annihilated, or rendered a nullity. All offences conſtituted criminal, by laws ſo made, as forgery, &c. ceaſe to be offences by the ſtatute. All taxes levied by ſuch laws, are illegal; as well as all the applications of the money. In ſhort, theſe aſſertions are of ſuch an extent, that they compaſs every thing; they overthrow all property, and all government. Illegality being the foundation, or ground proceeded upon, the indiſputable concluſion is, that whatever has been tranſacted by, or under, an illegal authority, muſt be void. We might as well reaſon upon the validity of acts of parliament binding the American colonies, after acknowledging thoſe colonies to be independent ſtates.

But what ſhall we ſay to theſe Speculators, if upon a ſlight examination into the authorities, we find that this claim of *right* to *annual* parliaments, is not founded in truth; that it is an impoſition upon the public; that it is a phantaſma of their own brains? I am afraid that ſuch diſcovery will give us cauſe to arraign their motives; for it is barely poſſible to aſcribe all that they have written upon this ſubject, to ignorance.

It is of no importance to the enquiry to ſearch for the cuſtoms of parliament before the

the Norman conqueſt. They cannot be aſcertained with preciſion; and if they could, the Conqueſt gave a new birth to the conſtitution, by which they were all obliterated. What had been practiſed by Ina, was not followed by Egbert: What had been done by Athelſtan, was not imitated by Ethelred. The government in thoſe early times was always temporary. The diviſions made of the iſland, the irruptions of foreigners, and many other cauſes, kept it conſtantly fluctuating. No periods for the certain duration of parliament, can therefore be derived from the crude and unſettled cuſtoms of thoſe ages. William the Firſt, ſat four years upon the throne before he called a parliament. Mention is made of the laws of this reign, but not a ſyllable of the duration of parliament. Magna Charta is wholly ſilent upon this point of duration.

The convening of parliament was indiſputably a branch of the prerogative even in thoſe early times: and the barons did not touch it. They only ſtipulated, that no money ſhould be raiſed, except for the king's ranſom, but by their authority. *Nullum ſcutagium vel auxilium ponatur in regno noſtro niſi per commune conſilium regni noſtri, niſi ad corpus noſtrum redimendum.*

If there had been any *right* to aſſert upon the point of duration, it is not to be credited, that the barons could have been ſilent upon it. But the other great point, viz. *repreſentation*, was unknown in thoſe times. The only perſons ſummoned to parliament were the lords and clergy. It is the ſtronger preſumption therefore, that the barons would not neglect to ſtate their own right to *annual* parliaments, if they had had ſuch a right.

As to the number of parliaments held, and the periods of them, by the ſeveral kings, from the Conqueſt to Henry III. in whoſe reign repreſentation commenced, thoſe circumſtances prove nothing, one way or the other; becauſe in all the parliaments held, (whether they were called Wittena Gemotes, Great Courts, or otherwiſe) there were no repreſentatives of the people. Each perſon ſummoned was in right of his rank. He repreſented nobody. He acted for himſelf; and was anſwerable to none. Nobody could diveſt him of his ſeat, but the king alone; by virtue of whoſe ſummons he came to parliament.

The firſt ſummons of repreſentatives of the people, was in the year 1264, the 49th of Henry III. (the cauſe of which is explained in

in another place, vide page 32,) and conſequently this was the firſt time of *electing* them. This ſummons was ſimilar to that which had been uſed for ſummoning the barons; but in a little time the novelty became modelled; and *writs* were iſſued. The firſt were to counties; and afterwards to ſome principal cities and towns. There was no law made reſpecting the *duration* of parliament. Nor can any argument be drawn for, or againſt, the queſtion, from the cuſtom of thoſe early times; for there was no regular cuſtom. Some years parliament ſat twice in the ſame year; and at other times there was no parliament for ſeveral years. This irregularity cauſed a ſtatute to be made in the 4th of Edward III. for the holding of parliaments annually. It is here that the miſtake (if it has not been wilful) ſeems to have been made in the *claim* to *annual* parliaments. The claimants aſſert, that *new* parliaments were called annually in this reign, by a ſtatute which has not been repealed. And upon this aſſertion, they build their hypotheſis, that the people have a *right*, by law, to elect a *new* parliament every year. And it muſt be confeſſed, that they have been wonderfully aſſiduous in plundering old writers to render this problem ſpecious. It will be difficult,

difficult, if not impoſſible, to undeceive men, who have laboured hard to impoſe upon themſelves. But had they read the ſtatute throughout, or conſulted the ſubſequent ſtatutes of the 36th of Edward III. cap. 10; or the 2d of Richard II. nu. 28; they would have ſeen their error. Neither the 4th of Edward III. nor the two ſubſequent ſtatutes above named, authorize, or even mention, that a *new* parliament ſhall be elected annually.

All the three ſtatutes were made for a very different purpoſe; and that purpoſe is expreſſed in them. There can be no doubts raiſed upon the ſubject, becauſe the thing is perfectly clear: conſtruction is out of the queſtion. The purpoſe, and power of thoſe ſtatutes, are, purely *for the redreſs of grievances*. They ſay, "That parliaments ſhall be *held* annually, (not a word about *new*) and that they ſhall not be prorogued, or *diſſolved*, until *all* the petitions and bills before them, are anſwered and redreſſed." This, or rather theſe laws, are no more, than obliging the king to order the parliament *to meet every year*; which is the cuſtom of the preſent day. No perſon wants to be told, that if parliament were not, in the preſent reign, to meet every year, the nation would be in confuſion. The annual laws ſince the Revolution

volution have made it indiſpenſable. king cannot continue the government beyond *one* year, without the aſſiſtance of parliament. The moſt eſſential taxes, the land and malt, are given for only *one* year; the army and navy are voted only from *year to year*. So that theſe boaſted laws of old times, contain no other privilege, or liberty, than what is better eſtabliſhed by the wiſdom of the preſent age.

Formerly our kings diſpenſed with thoſe old laws; for when they did not want any thing of parliament, they ſeldom cared to be troubled with it. The Whigs at the Revolution, cannot be charged with either ignorance or negligence. They aſcertained all the rights of the people, and with equal juſtice reſpected the juſt prerogatives of the crown. Among theſe prerogatives that of diſſolving parliament was one. The Bill of Rights is therefore ſilent upon the ſubject. And the old ſtatutes ſay no more, than that it ſhall not be diſſolved until the public buſineſs is finiſhed. So that if the public buſineſs took up one, two, or more years, the king was not to diſſolve them until it was all gone through. There was another excellent law made ſoon after the Revolution (the act of Settlement), which collate-

rally

rally ſtrengthens the argument; for as the king can do nothing but by the advice of his council, that law makes his counſellors reſponſible for the advice they give him. If they adviſe the king to diſſolve the parliament at an improper ſeaſon, they muſt anſwer for it.

Some of the advocates for *annual* parliaments, ſeem to have been aware, that the ground which their aſſociates had choſen in the old ſtatutes, was not tenable without an *additional* argument. Had they indulged in only plauſible deduction, and inference, their ingenuity might have been admired, though their deſign might have been diſapproved. But their zeal has precipitated them into poſitive aſſertion; and they have aſſerted, that all the former parliaments ſat only *one* ſeſſion; that at the end of every ſeſſion the parliament was diſſolved; and therefore that the laws for the meeting of parliament annually, went equally to the electing of a *new* parliament annually.

Where the authorities are for theſe aſſertions, I have not been able to diſcover. To me they appear to have no foundation in truth. But the candid reader, who perhaps has neither the opportunity, nor the paſſion, to ſearch the volumes of antiquity, may with

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ſome propriety aſk, If there are any proofs of the contrary being the fact? I anſwer, Yes; and of a remoter date than the firſt triennial act.

The parliament which met at Weſtminſter on the 17th of September 1397, 11 of Richard II. (when all the ſtatutes abovementioned were recent in every one's memory) met again at Shrewſbury on the 29th of January in the following year; and held its *ſecond* ſeſſion there. See Cotton's Abr. pp. 367, 371. Tyrrel, p. 964. Rymer's Fœd. tom. 8, p. 21.

The Journals of the Commons commence with the reign of Edward VI. The firſt volume opens with the *firſt* ſeſſion of the firſt parliament of that king; which laſted from November 8, 1547, to December 23, 1547. The *ſecond* ſeſſion (expreſſly diſtinguiſhed by the word *ſecond)* from November 24, 1548, to March 14, 1548-9. The *third* ſeſſion (in like manner diſtinguiſhed by the word *third)* from November 4, 1549, to February 1, 1549-50. The *fourth* ſeſſion (in like manner diſtinguiſhed by the word *fourth)* from January 23, 1550, to April 15, 1552; when this parliament was diſſolved. See Vol. I. p. 23.

The *firſt Parliament* of Queen Elizabeth

met on the 23d of January 1558-9, and was diſſolved on the 8th of May in the ſame year. She called no parliament until the 12th of January 1562-3, when the *firſt ſeſſion* of her *ſecond* parliament began, and continued until April 10, 1563; at which time it was prorogued to October in the ſame year; and afterwards was prorogued five more different times; ſo that the *ſecond* ſeſſion did not begin until September 30, 1566; and continued, till January 2, 1566-7, when it was diſſolved. Her *third* parliament was not called until the 2d of April 1571, when it ſat only till May 29 of the ſame year; and was then diſſolved. Her *fourth* parliament ſat on the 8th of May 1572, the *firſt* ſeſſion of which laſted only till 30th of June of the ſame year. The *ſecond* ſeſſion (of this, her *fourth* parliament) did not begin until the 8th of February 1575, and continued to only March 15 of the ſame year. This parliament, ſays Sir Simon D' Ewes, page 204, was prorogued at leaſt twenty-five times. The *third* ſeſſion did not commence until January 16, 1580, and continued to March 18 of the ſame year; and after ſeventeen more prorogations, the parliament was diſſolved in April 1583.

The parliament in the reign of James I. ſat about

about eight days in three years, and was not diſſolved until the ninth year of his reign.

Many more proofs might be given; but theſe are enough to ſhew, that the aſſertions of former parliaments ſitting only *one* ſeſſion, and of their being diſſolved and elected annually, are not ſupported by either law, or cuſtom.

In 1641 the firſt triennial act was paſſed. This act did no more than revive the *principle* and *ſpirit* of the old ſtatutes, which were become obſolete. The act does not ſay that a *new* parliament ſhall be *elected* every three years, but "That there ſhall "be a ſeſſion held once in three years, at "leaſt, though the king ſhould neglect to "call his parliament, in order to prevent "the inconveniences ariſing from too long "an intermiſſion of parliaments." Had there been only a ſuppoſed *right* to a new election every year, or every three years, will any body believe, that the Commons of that day, would have neglected to mention it, after a twelve years government of the kingdom *without a parliament*, a circumſtance which at that time muſt have been full and ſtrong in all their memories? It is impoſ-

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ſible. They had no ſuch conceptions or opinions about *rights*.

In 1664 this act was repealed by the long parliament of Charles II. becauſe there was a proviſion in it, which was conſidered to be an invaſion of the prerogative of the crown, from the conſtruction which ſome ſpeculative men had put upon it; viz. that the parliament might meet whenever the neceſſities of the kingdom required it, though the king neglected to call them. But at the ſame time, to ſhew clearly, as well as repeatedly, that the conſtitution does not permit the king to govern without a parliament, they immediately paſſed a bill, enacting, "That "the ſitting and holding of parliaments ſhall "not be intermitted above three years at "the moſt;" which received the royal aſſent on the 5th of April 1664.

In the year 1677 the Houſe of Lords ſent the duke of Buckingham to the Tower, for aſſerting, the parliament was diſſolved by the late prorogation for fifteen months, which, his grace ſaid, was contrary to the ſtatutes of 4 Edward III. and 36 Edward III. See the Lords Journals, vol. 13, page 39.

The laſt authority I ſhall quote upon this point, is, Mr. Juſtice Blackſtone, who, in his Com-

Commentaries upon the Laws of England, ſays, (after ſhewing " That no parliament " can be convened by its own authority, or " by the authority of any, except the king " alone") " That by the antient ſtatutes of " the realm, he (the king) is bound to con- " voke a parliament every year, or oftener, " if need be. Not that he is, or *ever was*, " obliged by theſe ſtatutes, to call a *new* " parliament *every year*; but only to permit " *a parliament to ſit annually* for the redreſs " of grievances, and diſpatch of buſineſs, if " need be. Theſe laſt words are ſo looſe " and vague, that ſuch of our monarchs as " were inclined to govern without parlia- " ments, neglected the convoking them, " ſometimes for a very conſiderable period, " under pretence that there was no need of " them. But to remedy this, by the ſtatute " 16 Car. II. c. 1. it is enacted, that the " ſitting and holding of parliaments ſhall not " be intermitted above three years at the " moſt. And by the ſtatute 1. W. and M. " ſt. 2. c. 2. it is declared to be one of the " rights of the people, that for redreſs of all " grievances, and for the amending, ſtrength- " ening, and preſerving the laws, parliaments " ought to be held frequently."

This

This indefinite word *frequently*, occaſioned the act commonly called the triennial act, which paſſed in 1694; and which enacted, "That a *new* parliament ſhould be called "every third year, and that the preſent par- "liament ſhould be diſſolved before the firſt "of January 1695-6." This is the firſt law that limited the prerogative to any period of duration.

I will make but one more obſervation upon this diſagreeable theſis; which ſhall, in as few words as poſſible, reduce the prerogative of the king, and the claim of the Speculators, to a very ſimple alternative.

If the freeholders, and freemen, have a *right* to an annual election, the king has no right to diſſolve the parliament; becauſe the diſſolution would take place at the end of the annual ſeſſion, as a thing of courſe. If the claim to ſuch *right* is juſt, the prerogative to diſſolve whenever the crown ſees fit, is an uſurpation. If the prerogative is juſt, the claim to ſuch *right* is an attempt at uſurpation.

TRI-

TRIENNIAL PARLIAMENTS.

The advocates for triennial parliaments are not many, and thoſe for biennial are ſtill leſs in number. Upon the claim of *right* they are totally ſilent, and only ſay, that they conceive frequent elections would be for the good of the nation. An argument modeſtly urged will always obtain attention from Engliſhmen. Moderation and candour gain and win upon our judgment, when the claim of dogma, and auſterity of aſſertion, excite revolt in our natures, becauſe they ſeem to doubt the competency which every man enjoys, to form and adjuſt his own opinions.

It is to be remembered, that when the law for triennial parliaments was in force, the manners of the lower people were not ſo diſſolute as at preſent; conſequently that an election in thoſe days was not ſo corrupt and expenſive as in ours. A frequent appeal to the judgment of men of virtue and underſtanding, is, in ſome caſes very proper, and neceſſary; but before we admit the propriety, or neceſſity, in the important concern of frequently electing members of parliament, we ought to be confident of the fact, that is, the virtue; and if this is not eſtabliſhed, the

opinion

opinion that frequent elections are beneficial, is not supported; because a frequent appeal to the vicious habits of the people, can neither be serviceable to the country, nor to individuals. On the contrary, such frequent appeals become not only an approbation, but a confirmation also, of the vices connected with them. I am not insensible, that it may be said it is the candidate's own fault if he expends his money, that he ought not to do it, that he ought to be chosen freely, and without expence. This is very fine language in theory. But bring it into the scenes of real life, and see how it will operate. I will state a late instance of it; which is better than a thousand arguments drawn from speculation. On the day of nomination, previous to the last contested election for the *County* of Hertford, it was proposed, in order to conduct the election with perfect freedom and impartiality, by George Byng, esq. John Scott, of Amwell, esq. and other gentlemen, that the candidates, who were lord Grimstone, W. Plumer, esq. and T. Halsey, esq. should not open houses, &c. such practices being disgraceful to the freedom of election, and the independence of the county. Lord Howe, lord Melbourne, and a long list of gentlemen, approved of the

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propoſition ; but the moment it was known to the freeholders preſent, who were very numerous, there was a general cry from all quarters of *No ſtarving ! no ſtarving !* It was in vain to oppoſe it. The conſequence was, that the election was conducted as all other conteſted elections are.

In every county and open borough in England, it is the ſame. He cannot be a friend to the independence of parliament, who wiſhes to ſee theſe ſcenes renewed every year, or every three years. The conſequence of ſuch frequent elections would be a total expulſion of the country gentlemen from parliament, in a very few years. The future conteſts for members of parliament would lie between the corruption of the miniſter, and the corruption of the electors ; which would open a wide door to adventurers, of all deſcriptions ; and in thoſe places, where the miniſter could not nominate, as the lord warden did for the Cinque-ports until the Revolution, he would make an eaſy purchaſe of the half-ruined ſucceſsful candidate.

The great and reſpectable barrier (the country gentlemen) that now forms the independence of parliament ; that ſtands be-

tween the ambition of a miniſter, and the depravity of an elector; that has preſerved our conſtitution through ſo many ages; that has ſmote tyranny in all her holds; being removed; it is not poſſible for the human mind to fancy a ſituation, more abject and ſlaviſh, than that of ſuch a Houſe of Commons.

I remember to have ſeen, in the London Evening Poſt of the 13th of September 1770, a kind of proteſt againſt triennial parliaments. Whoever the writer is, I hope his candour will lead him to excuſe my tranſcribing a part of his paper.

"Becauſe the bulk of the common people, were there frequent elections of members to ſit in parliament, would become ſo idle, drunken, and immoral, from the conſtant treating, eating, drinking, bribing, &c. of the candidates, as to be actually good for nothing, and be altogether unfit to ſupply the navy or army with ſailors and ſoldiers; and alſo be incapable of undergoing the toils of agriculture, or ſerving their country in any of the uſeful and laborious employments.

"Becauſe ſuch frequent elections would create perpetual animoſities between the principal gentlemen in every county, and beget and

keep

keep up ſuch feuds amongſt them, as would be very detrimental, not only to the peace of private families, but to the ſervice of the public.

" Becauſe, if parliaments were triennial, there would be but one year in the three, that the buſineſs of the public could be properly tranſacted in parliament; for the firſt ſeſſion of it would be totally taken up in ſettling conteſted elections; and, during the laſt, the minds of the members would be wholly engaged in canvaſſing and making intereſt for another election."

" If a parliament, ſays another writer, was to continue no longer than one ſeſſion, the repreſentatives of the people would not have time ſufficient to paſs all neceſſary acts, and do the neceſſary buſineſs of the nation; as the greateſt part, if not the whole, of one ſeſſion would be taken up in conſidering and ſettling the rights of conteſted elections..... Annual parliaments would create an annual confuſion in the kingdom, and beget a perpetual diſorder in it."

There is an opinion, that triennial parliaments would weaken the confidence of foreign ſtates in our government: that a quick

change of parliament might render many, if not all the meaſures of miniſters, uncertain and unſtable; becauſe the next parliament might condemn, what the laſt had approved; and therefore that all engagements, eſpecially thoſe with foreign courts, would ſtand upon a very precarious tenure. It is true, that this is the caſe, in ſome ſort, at preſent; but there is a great difference between a parliament choſen for ſeven years, and one choſen only for three years. Meaſures are not broken, or revived, after a ſeven years eſtabliſhment, or diſcontinuance, with the ſame facility, as after only three. Let us illuſtrate this point. Suppoſe the parliament had been diſſolved at the end of the ſecond ſeſſion, after the introduction of Mr. Grenville's excellent bill for trying the merits of conteſted elections. Thoſe gentlemen who remember the ſtate and temper of that time, will not diſpute the probability, that a *new* parliament might have repealed the law. But the *ſame* parliament continuing who had repeatedly experienced the wiſdom and juſtice of the act, and who had beſtowed upon it the higheſt encomiums; it was made perpetual. One more ſuppoſition will illuſtrate the point more clearly. Suppoſe the preſent

parliament

parliament to have been diſſolved in the month of Auguſt laſt, and the *new* parliament to have met in November laſt, and lord North to have been appointed miniſter, either on, or a little previous to the meeting of the *new* parliament ——*might he not have revived the American war?*——A *new* parliament might have recommenced the war, but the preſent having condemned *that* part of it, could not, with any appearance of conſiſtency, have conſented to the revival of it. Frequent elections may as frequently change the ſyſtem of government. No miniſter could undertake a great meaſure, which required time to mature. The original ſupporters of his ſyſtem might be changed; and new men from ignorance, or other cauſes, might diſapprove of it; conſequently the government might be kept in continual confuſion.

Of Repreſentation in Parliament by COUNTIES.

The advocates for the reform of parliament, as they term it, do not ſtop with a claim of right to *annual* parliaments; but they demand a *farther alteration* in the fundamental conſtitution of parliament itſelf; which is nothing leſs than that the right of voting, or electing members of parliament, ſhall be extended to *all* the inhabitants of the kingdom, of whatſoever degree or condition: and ſome of theſe advocates proceed farther, and ſay that a certain number of boroughs ſhall be disfranchiſed, and one hundred knights added to the Counties. It is a little paradoxical, to demand a franchiſe for thoſe who never enjoyed it, and deny the exerciſe of it in thoſe who have ſuppoſed it to be an inheritance. It is holding liberty at the will of another, which Sir Edward Coke ſays "is a tenure "not to be found in all Littleton."

Upon what authority our Speculators make theſe demands, I have not been able to diſcover. To me, theſe demands appear to be not leſs dangerous and miſchievous, than the claim to *annual* parliaments.

Our Speculators ſay, that the Counties are not

not adequately repreſented; and therefore, they are preparing to enforce a propoſition, to add one hundred knights, in ſuch proportion to each County as they ſhall think fit.

Will theſe people be pleaſed to recollect a very important fact, in the conſtruction of our parliamentary conſtitution; which is, that repreſentation did not originate in the juſtice of the thing itſelf, but in the policy of the perſon who gave and authorized it.

Before the reign of Henry III. there were no repreſentatives elected by the people—— and yet every part of the kingdom was repreſented in parliament, by the barons, who were the owners of the ſoil. William I. having aſſumed the regal ſtate, as his own right, treated all who had oppoſed him as rebels, whom he diſpoſſeſſed of their lands; and diſtributed thoſe lands amongſt his friends, who held them of the crown by the ſervice of a certain number of ſoldiers, in caſe of invaſion or rebellion; and theſe, his friends, enfeoffed their own immediate followers, with ſome portion of what was aſſigned to them, under reſervation of ſuch ſervice. Theſe chiefs were called barons, and their eſtates baronies or honours (*vide* St. Amand).

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As every ſpot of land was in ſome barony, every part was repreſented by its baron. In ſome places the ſame baron had ſeveral baronies, and he repreſented them all; he could not divide his perſon. The principle as well as the fact, are continued to this day. A gentleman has two or three manors in the ſame County, upon each of which his ſteward holds a court baron; he can vote for only one of theſe at the ſame election; he has not a voice for each. But admit the innovation that his copyholders have a *right* to vote, and he will, as lord of the manor, begin to think that he has a *right* to a ſeat in the Houſe of Lords: and many better authorities, and much ſtronger arguments, might be offered in ſupport of his claim, than the Speculators bring in ſupport of equal repreſentation, as they call it.

It was after the battle of Lewes, 1264, when the barons had got Henry III. in their poſſeſſion, that they began to form a new ſyſtem of government; and reſolved to have it confirmed by the parliament; which was to meet on the 22d of June. The poſture, ſays the hiſtorian, of the affairs of the kingdom, rendered the calling of this parliament liable to many difficulties. Indeed it was

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done in the king's name, who could not oppoſe it. But the victorious barons were not willing thoſe of the contrary party ſhould be ſummoned, becauſe they were ſtill in arms againſt their country. On the other hand, a parliament conſiſting only of part of thoſe who had a right to ſit there, would ſeem to want full authority. Theſe difficulties put the barons upon contriving how to make this aſſembly more general, and give it a greater air of authority. To this end, they made the king ſign commiſſions, appointing in each County, certain officers called conſervators, who were inveſted with great power. The earl of Leiceſter, who was at the head of the victorious barons, next obliged the king to ſign orders to theſe conſervators, to ſend up four knights in each County to ſit in the enſuing parliament, as repreſentatives of their reſpective ſhires. In the next parliament it was altered to two knights for each county; this number has continued ever ſince, without any complaint, until the preſent time, of inadequacy, or diſproportion in repreſentation. Thus did repreſentation commence; not, as was obſerved before, in the juſtice of the thing, but in the policy of the man who gave it, ſubſtituting theſe knights of the ſhire, in

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lieu of thoſe barons, whom he did not chuſe to ſummon. To claim repreſentation upon any other ground, is to go from the truth; and the practice of all our king's reigns, from Henry III. to Charles II. puts the fact out of diſpute; for it was always in the prerogative to ſummon repreſentatives from whatever places the crown thought fit; and in ſome places the elected and electors petitioned to be excuſed.

"Let me examine for a moment," ſays Mr. T. Pitt, in a moſt excellent ſpeech upon this ſubject, printed in the *Parliamentary Regiſter*, Vol. 7, for 1782, page 128, "what is the clamour againſt the preſent ſtate of the repreſentation; in what it is ſuppoſed to have departed ſo widely from its firſt principle; and in what that defect conſiſts which is ſuppoſed to cry ſo loudly for reformation. Theoriſts, it ſeems, have endeavoured to eſtabliſh as a maxim, that that nation only can be free where no individual in it is governed but by laws to which he has given his aſſent in perſon, or by the mouth of one he has perſonally deputed to give that aſſent for him: freedom therefore is ſtated to conſiſt in equal perſonal repreſentation. Good God, ſir, is that the principle upon which this Houſe has been eſtabliſhed

eſtabliſhed by our anceſtors? Can any ſuch principle be applied to our conſtitution? Equal repreſentation, ſir, when out of a maſs of ſix or ſeven millions of inhabitants, not perhaps three hundred thouſand have been truſted with the privilege of voting for repreſentatives! What has been the hiſtory of parliament, at leaſt the hiſtory of the Houſe of Commons? The firſt writs, if I miſtake not, in the reign of Henry III. ſummoned to parliament none but knights of the ſhire; they were conſidered as a complete repreſentation of the people. But how was their equality adjuſted? By aſſigning the ſame number of repreſentatives to the County of Rutland, as to the Counties of Devon, Somerſet, Lincoln, and York. Is there ſcarcely a greater inequality to be ſtated in the preſent repreſentation? To theſe, ſir, which I have ever thought to be the true repreſentatives of the people at large, were added the great cities, and by degrees large towns, places of note, and even inconſiderable villages. By what rule they were added it is difficult to ſay; certainly not by any rule of equal repreſentation, or the uniform importance of the places that were honoured with this privilege. The prerogative at that time was held competent to grant

ſuch privileges, as it granted the privileges of corporations and immunities as it thought expedient; and ſuch beneficial or honorary privileges have ever been held among the moſt ſacred rights that we poſſeſs. Is it fit, is it expedient, ſir, to try theſe chartered privileges at this time of day by a *new* rule that never did apply to them?"

It is demanded to reverſe all the rules of our anceſtors. In order to comply with this demand, the firſt ſtep to be taken muſt be a total repeal of that wiſe and ſalutary ſtatute made 8 Henry VI. c. 7, to prevent *tumultuous* elections. Our anceſtors limited the right of voting for knights of the ſhire to freeholders of 40s. per annum; which biſhop Fleetwood ſtates as equal to 12l. per annum in the reign of queen Anne; and therefore it may be fairly ſaid, that the right of voting, ſo far from being abridged, is extended. I believe it will hardly admit of a doubt that there were more freeholders under 40s. per annum in the reign of Henry VI. than there are under 12l. in the reign of George III. and in the ſame propriety of hypotheſis we may ſay, that there are now very few, if any, freeholders, who have not more than 40s.

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per annum; conſequently *all* the freeholders of our time poſſeſs the right of election: but if the *principle* of the ſtatute of Henry VI. were purſued, and the right of election limited to 12l. per annum, it is poſſible, that ſometimes a better choice would be made, and it is certain, that conteſted elections would not always be ſo *tumultuous*, as at preſent.

Whatever was the right of election before the reign of Henry VI. is not preciſely known; but it is certain, that the elections were *diſorderly*, and *outrageous*, owing to *exceſſive numbers* of people. To put the right of election upon a conſtitutional footing, that is, to veſt it in thoſe who were leaſt likely to abuſe it, and to prevent thoſe diſorders which are almoſt inſeparably incident to *great multitudes* of low people, a petition was preſented to parliament, ſtating and ſoliciting a remedy for theſe grievances. In compliance with this petition, the above-named ſtatute of Henry VI. was made; which ſays, "That whereas knights of the ſhire had of late been choſen by outrageous and *exceſſive* numbers of people, and of *ſmall ſubſtance*, for the future, the ſaid knights ſhall be elected in every county, by people dwelling and reſident in the

the ſaid counties, whereof every one ſhall have in lands, or tenements, to the value of 40s. by the year at leaſt," &c. This ſtatute is founded in the beſt and pureſt principles of freedom. Nothing can be more chaſte in idea, than placing the right of election, where it was leaſt likely to be abuſed. But our modern innovators, whoſe notions of virtue are formed upon ſpeculations in their cloſets, and who ſeem to know little or nothing of the world, are aiming to pull down and deſtroy all the barriers of ſociety and freedom raiſed by the wiſdom and ſpirit of our anceſtors; and to throw the whole people into *one* general maſs of confuſion, tumult and anarchy. Having read all their arguments, I beg leave to ſay, that the moſt acute reaſoner of them all, cannot ſhew that their ſpeculations tend to any thing elſe. In the American Monitor, written by Mr. John Dickenſon, of Penſylvania, who a few years ago, publiſhed the Farmer's Letters, there are a few lines, which this part of the ſubject brings to my memory: " Gods, are we men, and ſhall we ſuffer the foundation to be laid for miſeries like theſe; ſhall we look tamely on while the yoke is fixed upon us, under which we muſt for ever groan? We and our

poſterity

poſterity for ever." Page 78, printed at Williamſburgh in 1769.

If this rule of election had not been thought wiſe and juſt, at the time it was eſtabliſhed, it would have been complained of. But ſo far from any complaint being made againſt it, upon the incorporation of Wales, 23 Henry VI. it was confirmed, and extended to that country; where freeholds being proportionably leſs in number, and money of higher value, the limitation might perhaps, *pro rata*, have been fixed at 20s. for that principality. And this limitation was *again* confirmed, for the ſame wiſe and obvious reaſons, 35 Henry VIII. in the act allowing knights for the county of Cheſter; which Richard II. had made a county palatine, when he held the *ſecond* ſeſſion of one of his parliaments at Shrewſbury. And this limitation was *again* confirmed, by an act of the 25th of Charles II. allowing knights for Durham, another county palatine; which had been hitherto exempted, ſays Browne Willis, vol. II. p. 513, "owing to the great power of the biſhops, to whoſe entire juriſdiction this whole county was ſubordinate." By ſeveral more acts of parliament it is recognized, and by the bill of rights.

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The caſe of Durham was attended by a circumſtance, which marks the ſenſe of parliamen upon this very point, of *equal* repreſentation, in the ſtrongeſt manner. There were Speculators in thoſe days; but the ſound judgment of parliament rejected their reveries. When the Durham bill was engroſſed, Sir Thomas Meres (March 26, 1668) moved "That the ſhires may have an encreaſe of knights, and that ſome of the ſmall boroughs, where there were but few electors, may be taken away, and this to make part of the Durham bill." Mr. Vaughan ſaid, "If we have all our members here, we have no room for them. If we bring in more members, we may, by the ſame reaſon, multiply them to as many more. The county of York has many, but they may as well put in for knights of every riding." See Anchitel Grey's Debates, vol. I. p. 120. But the Houſe, rather than agree to this, threw out the *whole* bill, upon a diviſion, as the leaſt evil. See Commons Journals, vol. IX. p. 69. In March 1673 the Durham bill was revived; and being now confined to the ſingle object of the county, it paſſed. I am aſhamed to trouble the reader with ſo many quotations; but the ſubject compels me to it, and I muſt give credit to his candour for my pardon.

From

From all theſe authorities, and many more, which might be given, it may be preſumed, that ſome ſtronger and more ſolid marks of diſapprobation, muſt be ſhewn againſt the preſent ſyſtem of county repreſentation, than the whims and ſpeculations of viſionary men, before parliament will conſent to pull down, and remove, one of the great land-marks of our conſtitution.

Mr. Cowper, afterwards earl Cowper, ſaid upon the Ayleſbury caſe in Parliament, anno 1704, "The right to elect a parliament-man is a diſtinguiſhing character *from the vulgar*." So great a lawyer would not have made ſo pointed a diſtinction, if he had not conceived it to be ſtrictly conſtitutional, as well as legal. And Sir Joſeph Jekyll calls it *common law*. Do the Speculators mean to demand a repeal of the common law? Are all the people of property, who having moſt to loſe, are moſt deeply intereſted, to be diſfranchiſed; or, what in this caſe would be the ſame thing, to be overpowered, by the admiſſion of people of little or no property, and who, being the majority, would decide every election in favour of the candidate, who gave them the higheſt bribe? It has been often ſaid, that the limitation of 40s.

per annum is much too low; that the right of election for knights of the ſhire ought not to be in perſons of leſs than 20l. or 25l. per annum; the voters of 5l. 10l. &c. expecting to be treated, to be carried to the place of election, and home again. This is an expence to the candidate, and ſometimes a very great one; and whatever is an expence is a ſpecies of corruption. But our Speculators wiſh to extend the right of election to *all* perſons whatever. Would not this make all elections *tumultuous* and *outrageous* to the laſt degree? Moſt certainly. And if parliaments were made *annual*, according to their other demand, would any perſons of decency attend ſuch elections? No. Theſe elections would be conſtantly made by the loweſt ſort of people, who lived in and near the county town. The *right* of election might indeed be extended to many, but the *exerciſe* of it would be confined to a very few.

The firſt conſequence of ſuch a mad and wicked meaſure, would be a diſlike of parliaments by all the men of ſenſe and property in the kingdom. Parliaments being elected by a privilege, not founded upon, but diſtinct and ſeparate from the intereſt of the country, gentlemen of property, could have

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no confidence in it; and many of them, it is more than probable, would desire to be relieved from the dangers of it. At all events, it could subsist no longer than while the crown thought fit. The constitution would be at an end.

Sweden lost her liberty, the other day, not by the consent of her nobles who risked every thing to preserve it, but by the common people abandoning their own cause. Had they supported the constitutional orders of their own senate, the king's design must have miscarried. The celebrated Cortez were destroyed by the venality of the common people. Had those assemblies been supported by the people, Philip could not have abolished them. It has been in all ages, and in all countries, the same. After the expulsion of Tarquin, the senate would have kept the government of all affairs in their own hands; but the plebeians made the greatest pretensions to be entirely free. What was the event? The State fell into confusion, and tyranny was established. Did the common people of this country restrain Charles the First? Did they support William the Third? Charles or the Parliament, the Pretender or William, were the same to them. The

judgment of meaſures, and the controul of the executive power, to preſerve true liberty, muſt be committed to able and adequate delegates. This is the happy temperment of our conſtitution. The delegates, or members of parliament, are choſen by *free* men, who have ſome property; and the member himſelf is obliged to ſhew, that he is properly qualified, by poſſeſſing a larger property. It is not in human nature to frame better diſtinctions. The component parts thus form a ſyſtem, that has withſtood the violence of civil wars, and has been the admiration of ages. Yet we are called upon to deſtroy this wiſe plan of our anceſtors, and adopt the viſionary project of a few miſanthropes.

The ſect of Speculators, like other ſects, who, when they have ſeparated from the national eſtabliſhment, ſubdivide amongſt themſelves, are not unanimous in their demand of a general right of election. A part of them, conſiſting almoſt entirely of the few perſons of conſideration amongſt them, are for adding *only* copyholders to the right of election for counties. Theſe gentlemen undoubtedly perceive, that the claim to a *general* right of election is untenable; that it is a point ſo extremely

tremely abſurd and futile, they are under the neceſſity of ſeparating from their *reforming brethren*, and they confine themſelves to the ſimple addition of copyholders *only*. Yet theſe gentlemen cannot be inſenſible, that the admiſſion of copyholders to the right of election, will open a door to leaſeholders to put in their claim to the ſame privilege; and after them, to all other perſons. The diſtinction made of copyholders only, will not prove a ſufficient barrier againſt the inundation of claims that will follow. A leaſehold for ninety-nine years, or other long term, is as good a tenure as a copyhold, and in ſome inſtances better; for a copyhold may lapſe to the lord from many cauſes, according to the cuſtom of different manors; beſides fines, herriots, &c. upon death, or alienation, in the courſe of ninety-nine years. And renewable leaſes, are in many caſes better than copyholds. The argument that will hold for one, will equally hold for the other; nor will there be much ingenuity required to extend it a little, in order to include the remainder of the non-electors. But as copyholders *only* are ſpoken of, it will be proper in this place to take notice of them *only*; and this being a point which lies in a

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narrow compaſs, I ſhall trouble the reader with but a few obſervations upon it.

And firſt, the thing appears to me to be impracticable. The tenure and the franchiſe are at variance. They are diſtinct matters; and being perfect oppoſites, they cannot be brought to partake of each other. One is *freedom*, the other *ſubjection*. Nature cannot produce two things more unlike. In order to give franchiſe to the copyholder, the tenure of the land muſt be changed; the cuſtoms of all the manors in England muſt be altered. The tenure of copyhold cannot admit of franchiſe, in any way, or for any purpoſe, unleſs the words *homage*, *fealty*, *ſuit* and *ſervice*, are eraſed out of the copy of the tenant's admiſſion. The holder cannot be called *free*, whoſe title is under any, or all theſe conditions. Perhaps, I ſhall be told, that theſe words are words of courſe, like *malice aforethought*, in an indictment for murder; but in caſes where penalties are annexed to the words, according to the tenure of all copyholds, in all manors, I muſt beg leave to ſay, that ſuch words, or any other words of like import, are not words of courſe, but are expreſſive of *conditions*; which, if not complied with, the cuſtom of the manor is not

preſerved;

preſerved; and the lord's property is injured. Fealty is often reſpited, and always paid for. If a copyholder has an eſtate in a manor, in which, according to the cuſtom, houſes only, and not land, are herriotable; and the tenant thinks proper to take down his houſe; his right of voting, according to theſe gentlemen's ideas, may exiſt, if his land alone is worth forty ſhillings per annum, but the lord will have loſt his herriot; and yet the tenant may perſevere in his infraction, becauſe he has not loſt his right of election, which, in the opinion of the Speculators, is paramount to all other rights. The cuſtom of thoſe manors in which the tenant cannot take down his houſe, hath hitherto proved a favourable circumſtance to population; for gentlemen of large property, having of late years, reduced the buildings upon their eſtates, by laying different farms together, and ſuffering thoſe houſes not occupied by their immediate tenants, to either tumble down, or their materials to be uſed in the repairs of other buildings, theſe copyhold houſes, which the tenants are obliged to keep up, have afforded comfortable aſylums to the day-labourer and his family. And here I muſt beg leave to obſerve again, that the cuſtoms of

manors

manors being the *tenures* of copyholds, no law, founded in common ſenſe, can give a franchiſe to ſuch tenures. To give the right of free election to perſons without annexing the tenure, would be a refinement that has not hitherto appeared in human wiſdom; and to give a right of election, or, in other words, to give ſuch a franchiſe to ſuch a tenure, would be to confound all diſtinctions between ſuperior and inferior, independence and ſubordination. Our anceſtors held the right of election ſo ſacred, that they confined it to only *free*-holders and *free*-men; they never conceived, that by the moſt ſubtle conſtruction, copyholders could, under any pretence, be admitted to that right. The ſuperiority of the freehold would have been annihilated in ſuch an innovation. The old ſtatutes, and Magna Charta, in which ſo much mention is made of *freemen*, clearly point the diſtinction eſtabliſhed by the wiſdom and virtue of former ages.

There is no way in which a copyholder can be releaſed from the obligations, inſeparable from his tenure, which he owes to his lord, but by enfranchiſement; and this enfranchiſement is undoubtedly to be purchaſed in thoſe places, where the lord is *willing* to

ſell;

ſell; by paying the quit-rent for a certain number of years, and other ſums for fines and herriots, as may be agreed upon; according to the extent of the property deſired to be enfranchiſed. But if a general ſweeping law, *compelling* every lord of a manor to enfranchiſe his tenants, in order that they may vote for knights of the ſhire, were to be made, by the preſent, or any other parliament, I believe it would be found not leſs difficult to enforce, than we have found the attempt to enforce taxation in America.

The Yorkſhire gentlemen, who are poſſeſſed of manors, ought to ſet the example by enfranchiſing their own tenants; and it would ſhew the ſincerity of their profeſſions, if they did it gratis. But to throw the thing upon parliament, or to deſire parliament to do it, ſeems to be nothing leſs than deſiring parliament to throw the kingdom into confuſion; to abrogate the cuſtom of, perhaps, every manor in England. In ſuch a caſe, would it be ſurpriſing, if lords of manors began to feel their own conſequence? If parliament deſtroyed their tenures, would they not complain of parliament? Would they not begin to ſearch into, and revive the *rights* which were formerly *annexed* to their eſtates? If their tenants had a

privilege to elect the leſſer barons, *i. e.* the knights of the ſhire, would not they begin to think, that being the greater barons, they ought to be ſummoned in perſon to the Houſe of Lords? And might not many extracts be made from Coke, Selden, Elſyng, Hakewell, Dugdale, Maddox, St. Amand, Pettus, &c. in favour of their claims? And laſtly, might it not be plauſibly urged, that to preſerve their eſtates, and the kingdom, from utter ruin, by a ſlaviſh parliament, who had betrayed, or abandoned the duty they owed to their country, they found it neceſſary to reſume the long-neglected exerciſe of their parliamentary rights and functions; and to out vote (or vote out) the ſervants of the crown, in order to maintain the independence of parliament?

Take away the copyhold tenure, and you take away the lord's property; his courts, his heriots, his fines, his quit-rents, the poſſibility of lapſes, &c. Omnipotent as parliament is ſaid to be, yet I doubt the power of parliament to do this. Even the bankrupt laws, which are founded in the pureſt principles of juſtice; laws, which were unknown in the feudal times of our anceſtors, which were begotten by modern trade, and matured

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by modern diſſipation, copyhold eſtates are not ſubject to them, only during the bankrupt's life. A freehold, or a leaſehold eſtate, the aſſignees may ſell; but a copyhold they cannot. And why is this? Becauſe ſuch ſubjection might eventually deprive the lord of his right. If the Whigs, who, at the time of the Revolution, ſettled and aſcertained the rights of the ſubject, had conceived that copyholders ought, or could be included, in the right of election, lord Somers, and the other great men of that day, who drew up the Bill of Rights, would not have neglected it. Some of the Speculators pretend to be the poſterity of thoſe Whigs—*ſed quantum mutati ab illis!*

I will make one ſhort obſervation of a contrary tendency; which is, that the admiſſion of copyholders to the right of electing will open a door to infinite abuſe. Let us ſuppoſe a poſſible caſe. A gentleman has a copyhold eſtate of 500 acres, which is let for 300l. per annum: he wiſhes to carry a favourite point at an approaching election. He makes a nominal ſale of this eſtate to one hundred and fifty perſons, and divides it accordingly. A ſpecial court is called, for the purpoſe of admitting theſe purchaſers. I will beg leave to aſk any lawyer, whether the

ſteward of the manor can *refuſe* to admit them? He cannot. After the admiſſion, no proofs againſt the titles can be offered, but ſuch as would go equally againſt the lord's own title. In a word, this matter is liable to the moſt effectual and extenſive colluſion. All the laws made to guard the purity of elections, will be deſtroyed by it. Some Innovator may perhaps ſay, But there ſhall be an oath, and the ſheriff ſhall look to it. Shall he? Then I believe no gentleman of character will ſerve the office of ſheriff. The wranglings concerning freeholds, copyholds, tenures, &c. will be infinite. In order to preſerve himſelf from Newgate, he muſt entrench himſelf behind a number of lawyers. In the bill that extends the right of election, I hope ſome gentleman will be kind enough to move, that a clauſe may be inſerted, That none but pettyfogging attornies, who have been ſtruck off the liſts by the courts in Weſtminſter-hall, ſhall hereafter be eligible to ſerve the office of ſheriff.

Of the Same, by CITIES *and* BOROUGHS.

The ſame gentlemen who declare for the emancipation of copyholders, are alſo the advocates of another propoſition; which is, to add *one hundred* knights to the preſent repreſentation of the Counties, and to amputate *fifty* Boroughs, that the number of members of parliament may continue what it is. But as neither the *diſtribution* of the knights, nor the *names* of the Boroughs are given, we can only reaſon upon the propoſition in the groſs. It is however to be recollected, that the other part of the Speculators, I mean thoſe who lay claim to a *general* right of election for *all* the people, have divided the Cities and Boroughs into claſſes (not very accurately), according to the number of citizens, or electors, there are in each; and from theſe premiſes, we may preſume, that the Boroughs meant or intended to be cut off, are thoſe in which there is the ſmalleſt number of electors. And to give this plan an appearance of wiſdom and juſtice, they ſay, that it was lord Chatham's plan.

Great reſpect will always be paid to lord Chatham's name; but to enſure that reſpect to this plan, it ought to be proved, or ſatisfactorily ſhewn, that it is lord Chatham's.

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There is one part of it, that relative to the Boroughs, which, I can take upon me to ſay, from the very beſt authority, is moſt unjuſtly aſcribed to lord Chatham. He never entertained an idea ſo illiberal. He had himſelf been member for Old Sarum, Seaford, Aldborough, &c. Where this plan of his lordſhip's is to be found, the Speculators have not informed us. I have diligently examined (I believe) all the books, pamphlets, and papers, which they have publiſhed upon this ſubject; and have not been able to find it in any of them. It is true, that it is mentioned in ſeveral of them; but it is always in ſuch a way, that it is never more than the writer's account of his lordſhip's opinion; or of the ſenſe, in which he wiſhes the reader to take, and underſtand it. It certainly would have been more candid, as well as more fair, to have given his lordſhip's words, as near as they could have been remembered; and ſince ſeveral of theſe writers pretend to have heard them, it is wonderful they have not done it. I will help them out of this difficulty.

A gentleman who was much eſteemed by the Grenville family, particularly by the late noble head of it, and who has for ſome time been amuſing his leiſure, with collecting materials,

terials, principally from private gentlemen, for the hiſtory of lord Chatham's life, (I do not mean the contemptible hiſtory which has been publiſhed in order to foreſtal the market) has a MS. copy of his lordſhip's ſpeech, in which (towards the concluſion) is all that his lordſhip ever ſaid publicly upon this ſubject.

This ſpeech was taken by a gentleman of very diſtinguiſhed character and abilities; but was never publiſhed. By the poſſeſſor's leave, I have made an extract of all that *part* of it which can be ſaid to be connected, in any degree, with the ſubject under conſideration. It was made in the Houſe of Lords on the 22d of January 1770, upon lord Rockingham's motion for appointing a day to take into conſideration the ſtate of the nation.

" I find myſelf compelled, my lords, to return to that ſubject, which occupies and intereſts me moſt; I mean the internal diſorder of the conſtitution, and the remedy it demands. [Here is a very able reply to the duke of Grafton upon the conduct of the public offices reſpecting the papers and accounts of the civil liſt.] But, my lords, the waſte of the public money is not of itſelf ſo important, as the pernicious purpoſe, to which we have reaſon to ſuſpect that money

has

has been applied. For ſome years paſt there has been an influx of wealth into this country, which has been attended with many fatal conſequences, becauſe it has not been the regular natural produce of labour and induſtry. The riches of Aſia have been poured in upon us, and have brought with them not only Aſiatic luxury, but I fear Aſiatic principles of government. Without connexions, without any natural intereſt in the ſoil, the importers of foreign gold have forced their way into parliament, by ſuch a torrent of corruption as no private hereditary fortune could reſiſt. My lords, I ſay nothing but what is within the knowledge of us all. The corruption of the people is the great original cauſe of the diſcontents of the people themſelves, of the enterpriſes of the crown, and the notorious decay of the internal vigour of the conſtitution. For this great evil ſome immediate remedy muſt be provided; and I confeſs, my lords, I did hope, that his majeſty's ſervants would not have ſuffered ſo many years of peace to elapſe, without paying ſome attention to an object which ought to engage and intereſt us all. I flattered myſelf I ſhould ſee ſome barriers thrown up in defence of the conſtitution, ſome impediment formed to ſtop the rapid pro-

progreſs of corruption. I doubt not we all agree that ſomething muſt be done. I ſhall offer my own thoughts ſuch as they are to the conſideration of the Houſe; and I wiſh that every noble lord who hears me, would be as ready as I am, to contribute his opinion to this important ſervice. I will not call my own ſentiments crude and indigeſted. It would be unfit for me to offer any thing to your lordſhips, which I had not *well conſidered*; and this ſubject I own has *long* occupied my thoughts. I will now give them to your lordſhips without reſerve.

" Whoever underſtands the theory of the Engliſh conſtitution, and will compare it with the fact, muſt ſee at once how widely they differ. We muſt reconcile them to each other, if we wiſh to ſave the liberties of this country. We muſt reduce our political practice, as nearly as poſſible to our political principles. The conſtitution intended that there ſhould be a permanent relation between the conſtituent and repreſentative body of the people. Will any man affirm, that, as the houſe of commons is now formed, that relation is in any degree preſerved? My lords, it is not preſerved; it is deſtroyed. Let us be cautious, however, how we have recourſe to violent expedients.

" The Boroughs of this country have properly enough been called, the rotten parts of the conſtitution. I have lived in Cornwall, and without entering into an invidious particularity, have ſeen enough to juſtify the appellation. But in my own judgment, my lords, theſe Boroughs, corrupt as they are, muſt be conſidered as the natural infirmity of the conſtitution. Like the infirmities of the body, we muſt bear them with patience, and ſubmit to carry them about with us. The limb is mortified, but *amputation might be* DEATH.

" Let us try, my lords, whether ſome gentler remedies may not be diſcovered. Since we cannot cure the diſorder, let us endeavour to infuſe ſuch a portion of new health into the conſtitution, as may enable it to ſupport its moſt inveterate diſeaſes.

" The repreſentation of the Counties is, I think, ſtill preſerved pure and uncorrupted. That of the great Cities is upon a footing equally reſpectable; and there are many of the larger trading towns, which ſtill preſerve their independence. The infuſion of health which I now allude to, would be to permit *every* County to elect *one* member more, in addition to their preſent repreſentation. The knights of the ſhires approach neareſt to the conſtitutional

repre-

repreſentation of the country, becauſe they repreſent the ſoil. It is not in the little dependent Boroughs, it is in the great Cities and Counties that the ſtrength and vigour of the conſtitution reſides, and by them alone, if an unhappy queſtion ſhould ever ariſe, will the conſtitution be honeſtly and firmly defended. I would encreaſe that ſtrength, becauſe I think it is the only ſecurity we have againſt the profligacy of the times, the corruption of the people, and the ambition of the crown.

" I think I have weighed every poſſible objection that can be raiſed againſt a plan of this nature; and I confeſs I ſee but one, which to me, carries any appearance of ſolidity. It may be ſaid perhaps that when the act paſſed for uniting the two kingdoms, the number of perſons who were to repreſent the whole nation in parliament was proportioned and fixed on for ever——That this limitation is a fundamental article, and cannot be altered without hazarding a diſſolution of the Union.

" My lords, no man who hears me can have a greater reverence for that wiſe and important act, than I have. I revere the memory of that great prince, who firſt formed the plan, and of thoſe illuſtrious patriots, who carried it into execution. As a contract, every article

article of it ſhould be inviolable. As the common baſis of the ſtrength and happineſs of two nations, every article of it ſhould be ſacred. I hope I cannot be ſuſpected of conceiving a thought ſo deteſtable, as to propoſe an advantage to one of the contracting parties at the expence of the other. No, my lords, I mean that the benefit ſhould be univerſal, and the conſent to receive it unanimous. Nothing leſs than a moſt urgent and important occaſion ſhould perſuade me to vary even from the letter of the act; but there is no occaſion, however urgent, however important, that ſhould ever induce me to depart from the ſpirit of it. Let that ſpirit be religiouſly preſerved. Let us follow the principle upon which the repreſentation of the two countries was proportioned at the Union: and when we encreaſe the number of repreſentatives for the Engliſh counties, let the ſhires of Scotland be allowed an equal privilege. On *theſe terms*, and while the *proportion* limited by the Union is *preſerved* between the two nations, I apprehend that no man, who is a friend to *either*, will object to an alteration, ſo neceſſary for the ſecurity of both. I do not ſpeak of the authority of the legiſlature to carry ſuch a meaſure into effect, becauſe I imagine no man will diſpute it. But

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I would not wiſh the legiſlature to interpoſe by an exertion of its power alone, without the chearful concurrence of all parties. My object is the happineſs and ſecurity of the two nations, and I would not wiſh to obtain it, without their mutual conſent." [Here follows a number of moſt elegant compliments to lord Rockingham, whoſe motion on this day lord Chatham ſeconded. The whole ſpeech laſted near three hours.]

The admirers of lord Chatham, will here obſerve, that his lordſhip lays no blame to the Septennial Act; he complains not of the duration of parliament, but the corruption of the people: he does not even hint at wiſhing for any alteration in the right of election; if he had been of opinion, after the mature conſideration which he had given to the ſubject, that copyholders ought to have a right of election, he would, undoubtedly, have mentioned it, when he ſpoke of the County Repreſentatives. He muſt have conſidered the old right of election, as it now ſtands, as the corner-ſtone of the conſtitution; that it could not be changed without bringing down the whole building. And upon the point of equal repreſentation, as it is called, he is alſo ſilent; but, it is a fair inference, that in giving *one* knight

knight more to *each* County, his lordſhip moſt unequivocally declares that *equal* repreſentation, in the ſenſe of the Speculators, is no part of his plan. And laſtly, with regard to the Boroughs, which make the foundation of the whole pretence for innovation, his lordſhip is very explicit and very pointed againſt the *amputation* of *any* of them.

This buſineſs of the Boroughs furniſhes the Speculators with the greateſt part of their arguments; and to do them juſtice, it muſt be confeſſed, that they have made the moſt of it. I have heard of a cunning tricking lawyer gaining an advantage over his adverſary, by a miſtake in the declaration; though the juſtice and equity of the cauſe, were not in the leaſt altered by it. Next to the opinion of lord Chatham, I beg leave to introduce that of the celebrated JUNIUS; who, though not here at preſent, cannot be long abſent; for Aſia, though large, is too limited for his mind——if this fugitive drops into his hand, he will know the writer.

JUNIUS *to the Supporters of the Bill of Rights.*

" As to the cutting away the rotten boroughs, I am as much offended as any man, at ſeeing ſo many of them under the influence of

of the crown, or at the diſpoſal of private perſons; yet I own I have both doubts and apprehenſions, in regard to the remedy you propoſe. I ſhall be charged, perhaps, with an unuſual want of political intrepidity, when I honeſtly confeſs to you, that I am ſtartled at the idea of ſo extenſive an amputation. In the firſt place, I queſtion the power *de jure*, of the legiſlature to disfranchiſe a number of boroughs upon the general ground of improving the conſtitution. There cannot be a doctrine more fatal to the liberty and property we are contending for, than that which confounds the idea of a *ſupreme* and *arbitrary* legiſlature. I need not point out to you, the fatal purpoſes to which it has been, and may be applied. If we are ſincere in the political creed we profeſs, there are many things which we ought to affirm cannot be done by kings, lords, and commons. Among theſe I reckon the disfranchiſing a borough with a general view to improvement. I conſider it as equivalent to *robbing* the parties concerned of their freehold, of their birthright. I ſay, that although this birthright may be forfeited, or the exerciſe of it ſuſpended in particular caſes, it cannot be taken away by a general law, for any real or pretended purpoſe of improving the

conſtitution.

conſtitution. *I believe there is no power in this country to make ſuch a law.* Suppoſing the attempt made, I am perſuaded you cannot mean that either king or lords ſhould take an active part in it. A bill which only touches the repreſentation of the people, muſt originate in the Houſe of Commons, in the formation and mode of paſſing it. The excluſive right of the Commons muſt be aſſerted as ſcrupulouſly as in the caſe of a money-bill. Now I ſhould be glad to know, by what kind of reaſoning it can be proved, that there is a power veſted in the repreſentative to deſtroy his immediate conſtituent: from whence could he poſſibly derive it? A courtier, I know, will be ready enough to maintain the affirmative. The doctrine ſuits him exactly, becauſe it gives an unlimited operation to the influence of the crown. But we muſt hold a different language. It is no anſwer to me to ſay, that the bill, when it paſſes the Houſe of Commons, is the act of the majority, and not of the repreſentatives of the particular boroughs concerned. If the majority can diſfranchiſe ten boroughs, why not twenty? Why not the whole kingdom? Why ſhould not they make their own ſeats in parliament for life? For argument's ſake, I will

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now ſuppoſe, that the expediency of the meaſure, and the power of parliament, were unqueſtionable, ſtill you will find an unſurmountable difficulty in the excluſion. When all your inſtruments of amputation are prepared—— when the unhappy patient lies bound at your feet, without the poſſibility of reſiſtance, by what infallible rule will you direct the operation? When you propoſe to cut away the rotten parts, can you tell us what parts are perfectly ſound? Are there any certain limits, in fact, or theory, to inform you at what point you muſt ſtop—at what point the mortification ends?—I have but one word to add,—I would not give repreſentatives to thoſe great trading towns, which have none at preſent. If the merchant and the manufacturer muſt be *really* repreſented, let them become freeholders by their induſtry, and let the repreſentation of the county be encreaſed. You will find the interruption of buſineſs in thoſe towns, by the riots and cabals of election, too dear a price for the nugatory privilege of ſending members to parliament."

Theſe arguments, and theſe reaſons, are all of them ſo weighty, that I ſhall not preſume to add any thing to them; except the bare mention of the ſimple fact, of the bo-

rough of Orford being transferred to the intereſt of lord Hertford, during lord Chatham's laſt adminiſtration; which ſhews his lordſhip's opinion of private, or family boroughs; that they were leſs dangerous, in the hands of a reſpectable family, deeply intereſted in the proſperity of the country, than if under the influence of the crown, or open to great temptation. He certainly had no idea of *amputation*. It would be better if all the boroughs in England were in private hands; for then the agents of Nabobs, and others, could not be elected. The proprietor of a borough, has a great intereſt in the country: if the country is ruined, he is ruined with it: he will not, therefore, countenance the knight of induſtry, or the foreign agent. Does any body imagine, that Brown Dignan could have polled the ſame number of votes at Amerſham, which he did at Hindon; or that the ſame ſpecies of application would ſucceed at Cockermouth, which is known to have been practiſed at Cricklade? Tell me not of Gatton and Sarum, they have nine times in ten, returned more able members of parliament, than the ſcot-and-lot boroughs of Shafteſbury and Ayleſbury. But I will not enter into an invidious particularity. Gatton, ſay Browne Willis,

Willis, vol. I. page 12, " was made a borough by Henry VI, and has continued returning ever ſince the 29th of his reign; notwithſtanding in the indenture I have ſeen in the Rolls chapel, anno 33 Henry VIII. there is ſpecified to be only one inhabitant in the ſaid borough."

If there had been no family boroughs, how was the late earl of Chatham to have got into parliament, when a young man? and many others, who, like him, have been more than an ornament to their country. But I will not appeal to the dead, or to former times; permit me to aſk, How was his ſon, the preſent Chancellor of the Exchequer, to have got into parliament, if theſe boroughs had been amputated, or the right of election laid open? He loſt his election for Cambridge. Until theſe young men have appeared in parliament, their parliamentary talents are not known to their country. While there are old men, with ambition and intereſt in the ſeveral localities, the young men will find it difficult to riſe. Our Reformers are chiefly old men, and if *all* the people, in their reſpective vicinages had a right to vote, probably ſome of them might come into parliament. A parliament of drones is more probable to be at the de-

votion of the miniſter, than thoſe active young minds, who are curious in inquiſition, and zealous in inveſtigation.

A few words may be ſaid reſpecting the gentlemen from the Weſt and Eaſt Indies (all of whom are not plunderers): their long reſidence abroad has precluded them from the poſſibility of making any large acquaintance at home; yet their great property, and perhaps thorough knowledge of the Britiſh poſſeſſions they have lived in, well entitle them to a ſeat in parliament, when they come to England. If the empire is injured, they are the firſt who are affected. Can there be either juſtice or policy in any plan which deprives parliament of the aſſiſtance of theſe gentlemen? If the boroughs are disfranchiſed, and the right of election made general, how are theſe gentlemen to come into parliament? Will the voters of any locality elect a ſtranger, in preference to a gentlemen, well known in the neighbourhood? When the intereſts of Jamaica or Bengal are under conſideration, can the gentleman who has never been out of England, ſupport, or oppoſe a commercial regulation, ſo ably or properly as the gentleman who has lived there?

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Theſe boroughs may be compared to the ſpecks on the ſun. They may be blots, but the luminary is too glorious and brilliant, to be refined or purified by modern aſtrologers. The Engliſh conſtitution is a fabric too beautiful to be repaired by theſe pſeudo-architects; who, by aboliſhing the boroughs, and giving a general right of election, would thereby exclude all the young men of abilities from parliament, as well as all the trading intereſt; and confining all repreſentation to the illiberality of local influence, would perpetuate a tyranny, more intolerable than the bittereſt of the feudal; becauſe more narrow and ſelfiſh in its principles. They know not what they ſay; to correct one evil, they would eſtabliſh a greater.

There is an argument made uſe of by Speculators, in favour of a general right of election, which, on the firſt reading, ſeems a little plauſible. They ſay, that if the right of election were general, that is, in all the inhabitants, there would be leſs corruption; becauſe it is *impoſſible* for any candidate to bribe *all* the people. They are here ſpeaking of cities and large towns, in which the inhabitants amount to ſeveral thouſands. Admitting the impoſſibility to the fulleſt extent,

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and admitting likewiſe, for a moment, all the fine ſpeculations, founded upon, or derived from, this ſplendid promulgation of virtuous principles and virtuous actions; let us try theſe arguments by facts. Weſtminſter is the place, where the right of election comes neareſt to the propoſition of all perſons having a right to vote. Every houſekeeper there has a right to vote for members of parliament; and if there are two, or more partners, (even ten or a ſcore) in the ſame houſe, they have *all* a right to vote for the *ſame premiſes*. This is pretty general. Now all thoſe gentlemen who know any thing of a conteſted election in Weſtminſter, muſt know that it is one of the moſt expenſive elections in England; and the reaſon that the elections in Weſtminſter are not oftener conteſted, is the juſt dread of the enormity of the expence. The Lords Mountmorres and Mahon were never ſuſpected of bribing any one, yet their expences exceeded the moſt extravagant calculation. The expences of Mr. Fox's firſt election were ſo conſiderable, that they are not all diſcharged to this day.

Wherever the number of electors is conſiderable, conteſted elections are expenſive. In London, where it would be impoſſible to give

to

to all the inhabitants the right of election, it is, by the wisdom of our ancestors, and confirmed by special act of parliament, given to Liverymen *only:* yet ask Mr Beckford's family, what were the sums the expences of his elections amounted to? If the madness of any parliament were to make the right of election in London general, who would be a candidate? and what would the livery companies say? Mr. Alderman Sawbridge knows not what he is doing, when he promotes the thing. The liveryman whom it has cost from twenty to sixty pounds, to come upon the livery, has little obligation to him for his attempts to absorb his franchise; and put him on a level with the occasional inhabitant from York or Bristol. Who will put a younger son to trade, which must be done in cities or towns, and give a large apprentice-fee, if when the youth is out of his time, he has no franchise, or privilege, superior to the day-labourer? The franchises and privileges of our cities and towns have given infinite encouragement to industry and ingenuity. Great statesmen and great warriors have thought it an honour to receive them. And shall we, for a speculative whim, repeal the several acts of parliament ascertaining the rights of electors, in

different places, and take away the charters of all the corporations in England? The man who aſks it, is a proper object for Bedlam.

Do the Speculators imagine that the livery of London, three-fourths of whom are men of opulence, will tamely bear to be diſfranchiſed; or, what is the ſame thing, to be obſcured, abſorbed, and ouſted by every foreigner and houſekeeper in the city, who has not even taken up his freedom, being allowed to vote? The attempt may create a more dangerous, becauſe a more regular, reſiſtance, than lord George Gordon's mob.

If *every* man in London had a right to vote, this general right would not only influence the elections in the capital, but extend very conſiderably into the country; for many of the inhabitants of London, having votes elſewhere, they would elect more than their ſhare. The capital is eſtimated to contain at leaſt one ſeventh of the inhabitants of the kingdom; conſequently they would elect one ſeventh of the repreſentatives. The capital would be kept in continual confuſion: every winter there would be inſtructions to their repreſentatives. Parties would be daily formed, upon principles of intereſt or paſſion; ſome for, ſome againſt the inſtructions, &c. By ſuch a mode, the inhabitants

inhabitants might be ſaid to be in ſome ſort repreſented, but will any man ſay that the *property* would?

There never was a *general right* of election. The firſt idea of parliament, was by a *ſelection*. The original barons was a *ſelection*. The firſt writs for Counties were directed to a *ſelection*; then to particular Cities and Towns, what was but to a *ſelection*? A general right was never ſuppoſed to exiſt, from the firſt day to the preſent hour. It was never aſked, perhaps never thought of before. A liſt of the places which formerly ſent repreſentatives, and which, by their own conſent, or deſire, have been excuſed, might put our modern Speculators for general repreſentation, to the bluſh. But here it is.

Newbury, *Berks*	Sherborne
Ely, *Cambridgeſh.*	Chelmsford, *Eſſex*
Polurun, *Cornwall*	Bromyard, *Herefordſh.*
Egremont, *Cumberland*	Lidbury
Bradneſham, *Devon*	Roſs
Crediton	Berkhampſtead, *Herts.*
Fremington	Biſhops-Stortford
Modbury	Tunbridge, *Kent*
South-Moulton	Melton Mowbray, *Leic.*
Exmouth	Spalding, *Lincoln*
Teignmouth	Wainfleet
Lidford	Bamburgh, *Northum.*
Torrington	Canebrig
Blandford, *Dorſetſh.*	Burford, *Oxon*

Dedington	Overton
Chipping-Norton	Farnham, *Surrey*
Whitney	Kingſton
Dunſter, *Somerſetſh.*	Bradford, *Wilts*
Stoke-Curſy	Mere
Watchet	Dudley, *Worceſterſh.*
Axbridge	Kidderminſter
Chard	Perſhore
Langport	Pickering, *Yorkſh.*
Montacute	Jarvall
Were	Tickhill
Alresford, *Hants*	Ravenſer
Aulton	Doncaſter
Baſingſtoke	Whitby :
Fareham	

And the Boroughs of Dunſtable, *Bedford*; Glaſtonbury, *Somerſet*; Odyham, *Hants*; and Highworth, *Wilts*; though ſummoned never complied with the ſheriff's precept. Manchester, Leeds, Halifax, and Wiſbech, ſent repreſentatives to Cromwell's parliament, but neither before nor ſince.

All the inhabitants of theſe places paid their reſpective ſhares of every new impoſt; but did not wiſh, or want, to be any longer particularly repreſented. They were perfectly ſatisfied with the general repreſentation of the country; and this was the ſenſe of parliament, when Charles II. had granted ſeveral charters, the Commons declared, that the *elections* made by virtue of that prince's charters, were void. The people did not deſire to have their elections repeated; they did not want to ſee their towns

towns kept in buſtle and confuſion, by contending candidates. Aſk the people of property at Mancheſter, what would be the effect of a conteſted election in that town; and they will anſwer, that all their journeymen would be drunk, every day, ſix months before the election, and ſix months after; and that the miſchief would extend to Bolton, Bury, Rochdale, and all the leſſer manufacturing towns and villages in the neighbourhood. It would be the ſame at Birmingham.

In the Lords Journals, Vol. XVII. p. 699, we find the right of election defined, and aſcertained, which never could be, if it had been general. The words are theſe: "The right of election is a legal intereſt, incident to the freehold, or founded upon cuſtom, or the letters patents of your Majeſty's royal anceſtors, or upon particular acts of parliament."

To be properly conſiſtent, if the right of election ought to be made general, that is given to all the people, according to the claim; the right to become candidates, ought likewiſe to be made general. An extention of one right and not the other, is *partial* juſtice. If *all* have the privilege of voting, they ought *alſo* to have the privilege of making their own free choice. It would be the higheſt injuſtice to

give to *all* the right of electing, and confine the objects of election to the preſent limited qualifications. The preſent ſyſtem of repreſentation, was formed upon the principle of *ſelecting* gentlemen for repreſentatives, and *freeholders* and *freemen only* for electors. But if the right of electing is made general, the freedom of choice ought to be the ſame. The juſtice is no more neceſſary in one caſe, than in the other. If one law is an infringement of the rights of the people, the other is the ſame. There can be no juſtice done to the people at large, in withholding a free and general choice, if you give a general right. The law, which fixed the qualification of the repreſentative, is no more valid, than the law which fixed the qualification of the voter.

Every gentleman will make his own reflections upon theſe *claims*. I wiſh not to *inflame*, but to *caution*. Parliament is too low already. The admiſſion of *all*, or *any* of the claims, which I have mentioned, would make it lower. The meaſure and the conſequence are inſeparable.

If we admit any innovation to be made in the preſent parliamentary conſtitution, the firſt perſons who would claim, and unqueſtionably would

would have a good claim, would be the *national* proprietors of the public funds, and the members of the monied companies, the Bank, Eaſt-India, &c. Theſe poſſeſſing a ſpecies of property, which was unknown to our anceſtors, at the time that repreſentation was given, have, as ſuch, never been repreſented. Their weight and conſequence at this time, entitle them to the firſt conſideration; yet they have never been known to complain. They are too wiſe not to know, that innovations in the conſtitution, hazard the permanency, the ſecurity, and the happineſs of it. If the holders of ſuch immenſe property, can put a confidence in parliament, choſen by the *preſent* rights of election, ſurely the journeyman taylor and carpenter ought. But the intemperate zeal of the Speculators, would animate theſe low people with the idea of poſſeſſing a privilege, which they neither underſtand, nor are capable of making a proper uſe of. In ſhort, if it is intended to ſow the ſeeds of American reſiſtance in this iſland, I know of no tillage that may in time be ſo productive. The Speculators have manured well. I have been told, that they have not printed and diſperſed leſs than half a million of their various pamphlets, and papers, in different ſhapes and ſizes.

ſizes.——Is not all this too much for *pure* philanthropy?

But I will conclude in the words of lord Shafteſbury, who wrote thus to his friend the firſt lord Moleſworth: "There is a concealed party of ſober and honeſt men; who, as few as they are, and as little noiſy, have a much greater part in the influence of affairs, than miniſters are apt to think."

FINIS.